

BILL LOCKYER, Attorney General
of the State of California
AMY FAN, State Bar No. 156211
Deputy Attorney General
California Department of Justice
300 South Spring Street, Suite 1702
Los Angeles, California 90013
Telephone: (213) 897-0188
Facsimile: (213) 897-9395

Attorneys for Complainant

**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the First Amended Accusation
Against:

KENT HAYWOOD WILSON
3539 Rosales Court
Santa Maria, CA 93455

Physical Therapist License No. PT 22185

Respondent.

Case No. 1D 2003 63316

OAH No. L 2005 050387

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about September 23, 2005, Complainant Steven K. Hartzell, in his official capacity as the Executive Officer of the Physical Therapy Board of California, Department of Consumer Affairs (Board), filed First Amended Accusation No. 1D 2003 63316 against Kent Haywood Wilson (Respondent).¹

2. On or about December 18, 1996, the Physical Therapy Board of California (Board) issued Physical Therapist License No. PT 22185 to Respondent. The license was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2006, unless renewed.

1. On February 8, 2005, Accusation No. 1D 2003 63316 was filed and served on Respondent. (See Exh. A.)

1 3. On or about September 23, 2005, Elsa Ybarra, an employee of the
2 Complainant Agency, served by Certified Mail a copy of the First Amended Accusation No. 1D
3 2003 63316 and Supplemental Statement on Respondent at his address of record with the Board
4 (or address noticed in Respondent's Notice of Defense), which is 3539 Rosales Court, Santa
5 Maria, California 93455. A copy of the First Amended Accusation, the related documents, and
6 Declaration of Service are attached as exhibit B, and are incorporated herein by reference.

7 4. Service of the First Amended Accusation was effective as a matter of law
8 under the provisions of Government Code section 11505, subdivision (c).

9 5. On or about February 20, 2005, Respondent signed and returned a Notice
10 of Defense, requesting a hearing in this matter. A Notice of Hearing was served by mail on
11 Respondent and it informed him that an administrative hearing in this matter was scheduled for
12 September 29, 2005. A copy of Respondent's Notice of Defense, the Notice of Hearing, and
13 Declaration of Service are attached hereto as exhibit C, and are incorporated herein by reference.

14 6. On September 29, 2005, Respondent failed to appear at that hearing.²

15 7. Government Code section 11506 states, in pertinent part:

16 "(c) The respondent shall be entitled to a hearing on the merits if the respondent
17 files a notice of defense, and the notice shall be deemed a specific denial of all parts of the
18 accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of
19 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

20 8. California Government Code section 11520 states, in pertinent part:

21 _____
22 2. At the time of hearing in this matter, Administrative Law Judge Samuel D. Reyes found
23 that Respondent has sufficient and reasonable notice of the First Amended Accusation.
24 Specifically, Judge Reyes found that Respondent was notified on three occasions prior to the
25 filing of the First Amended Accusation that the Fresno arrest and criminal matter would be the
26 subject of an amendment and to be presented at hearing on September 29, 2005. (See Exh. D,
27 which were marked as Exhs 13, 14, and 15.) Judge Reyes found that Respondent had sufficient
28 time in which to present or submit a defense and to answer the new allegation. With respect to
the September 9, 2005 arrest alleged in the First Amended Accusation, Judge Reyes found that
Respondent did not have sufficient notice of the allegation to present it at the hearing as
presently scheduled. Complainant moved to strike the September 9, 2005, allegation presented
at paragraph 31. After the Administrative Law Judge found that notice was properly provided
to the Respondent, the matter was remanded to proceed by default before the Board.

1 "(a) If the respondent either fails to file a notice of defense or to appear at the
2 hearing, the agency may take action based upon the respondent's express admissions or
3 upon other evidence and affidavits may be used as evidence without any notice to
4 respondent."

5 **October 10, 2002 Conviction**

6 9. On July 22, 2002, Atwater police officers served a search warrant at
7 Respondent's residence. The officers found counterfeit payroll checks and a computer,
8 printer and scanner that was used to make the checks. On July 23, 2002, Respondent
9 surrendered to police and was arrested. Respondent admitted his handwritten notes,
10 which were instructions for making the check, were on one of the counterfeit checks.
11 (See Exh. E.)

12 10. A complaint was filed on July 25, 2002, entitled *People v. Kent Haywood*
13 *Wilson*, in Merced County Superior Court, Case No. AF33805, charging Respondent with
14 forgery, possession of a blank check with the intent to defraud, and possession of a
15 completed check with the intent to defraud. (See Exh. F.)

16 11. On October 10, 2002, Respondent was convicted by a plea of nolo
17 contendere to the crime of forgery, in violation of Penal Code section 470 (a
18 misdemeanor), and possession of a blank check with the intent to defraud in violation of
19 Penal Code section 475(b) (a misdemeanor.) Respondent was sentenced to a three year
20 term of probation was ordered to serve 60 days in county jail. (See Exh. G at pp. 7, 15.)

21 **February 7, 2001 Conviction**

22 12. On December 13, 2001, California Highway Patrol issued citation no.
23 MP64140, charging Respondent in possession of less than one ounce of marijuana while
24 driving a motor vehicle in violation of Vehicle Code section 23222(b) (Count 1), driving
25 with an expired registration in violation of Vehicle Code section 4000(a) (Count 2), and
26 driving without proof of insurance in violation of Vehicle Code section 16028(a) (Count
27 3.) Respondent was directed to appear in superior court on January 17, 2001. (See Exh.
28 H at p. 6.)

1 13. On or about January 9, 2001, a complaint was filed in *People v. Kent*
2 *Haywood Wilson*, in Santa Cruz County Superior Court, Santa Cruz County, Case No.
3 W02161. The complaint was based on charges listed in the citation. (Id. at p. 3.)

4 14. On January 17, 2001, Respondent failed to appear in Santa Cruz Superior
5 Court. The complaint was amended with an additional charge for failing to pay a fine in
6 violation of Vehicle Code section 40508(a) (Count 4.) (Id. at p. 3.)

7 15. On February 7, 2001, Respondent pleaded guilty to Count 1 for
8 possession of less than one ounce of marijuana while driving a motor vehicle (Vehicle
9 Code § 23222(b)), and to Count 3 for driving without proof of insurance (Vehicle Code §
10 16028(a).) With respect to Count 1, Respondent was ordered to pay a fine of \$190.
11 Respondent was also ordered to submit proof of registration and insurance. The case was
12 continued to April 25, 2001. (Id. at pp. 2-3, 4, 7.)

13 16. On April 25, 2001, Respondent failed to appear. Respondent was charged
14 with failure to appear, a violation of Penal Code section 1320(a) (Count 5.) (Id. at pp. 2,
15 7.)

16 17. On August 30, 2002, the Court dismissed Counts 2, 4 and 5. Respondent
17 was ordered to pay an additional fine of \$250 with regard to count 3. (Id. at pp. 1-2, 5, 7.)

18 18. On November 7, 2002, Respondent was charged with failure to pay a
19 lawfully imposed fine in violation of Vehicle Code section 40508(b) (count 6) and
20 a bench warrant was issued for his arrest. Bail was set at \$595. (Id. at pp. 1, 7.)

21 19. On August 10, 2004, Respondent paid his fine of \$595.00. (Id. at p. 9.)

22 **Possession and/or Use of a Controlled Substance on July 24, 2005**

23 20. On July 24, 2005, Respondent was arrested by the Fresno Police at the
24 home of his ex-wife. Respondent had his three children with him in his car he drove to
25 his ex-wife's home. (See Exh. I.)

26 21. At the time of Respondent's encounter with the Fresno police, Respondent
27 admitted that he had been using methamphetamine for over a year. He had used
28 approximately three hours prior to arriving at his ex-wife's home. Respondent was also

1 driving with a suspended or revoked license. As a result, the vehicle was impounded. An
2 inventory search of the vehicle revealed a crack pipe, two empty cans of alcoholic
3 beverages, and a bag of green leafy substance that appeared to be marijuana. (Id. at pp. 3-
4 6.)

5 22. On or about July 27, 2005, a ten-count Felony Complaint was filed
6 in Fresno County Superior Court against Respondent in *People v. Kent Haywood Wilson*,
7 Case No. F05905661-5, charging him with Counts 1-3 for child abuse (Penal Code §
8 273a(a)), Count 4 for transportation of a controlled substance to wit: methamphetamine
9 (Penal Code § 11379(a)), Count 5 for transportation of marijuana (Penal Code §
10 11360(a)), Count 6 for driving under the influence of alcohol or drugs - a misdemeanor
11 (Vehicle Code § 23152(a)), Count 7 for being under the influence of a controlled
12 substance - a misdemeanor (Health & Safety Code § 11550(a)), Count 8 for driving when
13 privilege suspended or revoked (Vehicle Code § 14601.1(a); Count 9 for possession of
14 opium pipe, and count 10 for possession of an open container in a motor vehicle (Vehicle
15 Code § 23223(a).) A bench warrant has been issued for Respondent's appearance and for
16 arraignment on the charges. (See Exh. J.)

17 23. Pursuant to its authority under Government Code section 11520, the Board
18 finds Respondent is in default. The Board will take action without further hearing and, based on
19 Respondent's express admissions by way of default and the evidence before it, contained in
20 Exhibits A through K and finds that the allegations in First Amended Accusation No. 1D 2003
21 63316 are true.

22 **DETERMINATION OF ISSUES**

23 1. Based on the foregoing findings of fact, Respondent Kent Haywood
24 Wilson has subjected his Physical Therapist License No: No. PT 22185 to discipline.

25 2. A copy of the First Amended Accusation and the related documents and
26 Declaration of Service are attached.

27 3. The agency has jurisdiction to adjudicate this case by default.

28 4. The Physical Therapy Board of California is authorized to revoke

Respondent's Physical Therapist License No. PT 22185 based upon the following violations alleged in the First Amended Accusation:

- a. Conviction of Crimes in violation of Business and Professions Code sections 2660, subdivision (d), and 2661; as well as Title 16, California Code of Regulations section 1399.20, subdivision (a);
- b. Commission of Fraudulent, Dishonest or Corrupt Acts in violation of Business and Professions Code section 2660, subdivision (I);
- c. Possession and/or use of a Controlled Substance in violation of Business and Professions Code section 2239; and
- d. Unprofessional Conduct in violation of Business and Professions Code section 2234.

ORDER

IT IS ORDERED that Physical Therapist License No. PT 22185, heretofore issued to Respondent Kent Haywood Wilson, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on December 2, 2005.

It is so ORDERED November 2, 2005

Original Signed By: Donald A. Chu, PhD, PT, President
FOR THE PHYSICAL THERAPY BOARD OF
CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS

Attachments:

Exhibit A: Accusation No. 1D 2003 63316, Related Documents and Declaration of Service

Exhibit B: First Amended Accusation No. 1D 2003 63316, Related Documents and

- 1 Declaration of Service
- 2 Exhibit C: Notice of Defense, Notice of Hearing and Declaration of Service
- 3 Exhibit D: Correspondences to Respondent evidencing notice of new allegation for
4 Amended Accusation
- 5 Exhibit E: Certified copy of Atwater Police Department Reports and Records
- 6 Exhibit F: Certified copy of Criminal Complaint in matter of *People v. Kent Haywood
Wilson*, Case No: AF33805
- 7 Exhibit G: Certified copies of Merced County Superior Court Records in matter of
8 *People v. Kent Haywood Wilson*, Case No: AF33805
- 9 Exhibit H: Certified copy of Sant Cruz Superior Court Records in matter of *People v.
Kent Haywood Wilson*, Case No; W02161
- 10 Exhibit I: Certified copy of Fresno Police Department Reports and Records
- 11 Exhibit J: Felony Complaint in the matter of *People v. Kent Haywood Wilson*,
12 Case No: F05905661-5
- 13 Exhibit K: Certification of Costs (Investigation and Prosecution)
- 14
- 15

16 DOJ docket number:03575160-LA2004601918
17 Wilson/Wilson, K. Default Decision.wpd

18

19

20

21

22

23

24

25

26

27

28